

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

ARMANDO YBARRA,)	CASE NO. 4:13-CV-00963-O
)	
Plaintiff,)	JUDGE REED C. O'CONNOR
v.)	
)	
DISH NETWORK L.L.C.,)	
)	
Defendant.)	

**NOTICE OF SETTLEMENT AND STIPULATION OF DISMISSAL
WITH PREJUDICE AS TO NON-ADJUDICATED CLAIMS**

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), Plaintiff Armando Ybarra and DISH Network L.L.C. ("DISH") stipulate to the dismissal with prejudice of all claims for which summary judgment was not granted in Plaintiff's favor in the Court's November 14, 2014 Memorandum Opinion and Order. (*See* Doc. 64.)

This stipulation does not apply to or affect the adjudicated seven telephone calls from the (866) 668-8047 telephone number as adjudicated in the Court's Memorandum Opinion and Order (Doc. 64) and does not impact DISH's right to appeal that Order, which issues are addressed in the separately filed joint proposed judgment entry.¹ *See United States ex rel Longhi v. Lithium Power Techs., Inc.*, 575 F.3d 458, 464-65 (5th Cir. 2009) (dismissing portion of claim under Rule 41(a)(1)(A)(ii) and preserving prior ruling for appeal).

¹ *See SmallBizPros, Inc. v. MacDonald*, 618 F.3d 458, 463 n. 3 (5th Cir. 2010) ("There is no prohibition in Rule 41(a)(1)(A)(ii) against parties adding explicit conditions to their stipulation of dismissal[.]")

Dated: December 10, 2013

Respectfully submitted,

/s/ Jenny DeFrancisco

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CERTIFICATE OF SERVICE

I hereby certify that on December 10, 2014, a true and correct copy of the foregoing was filed with the Clerk of Court for the United States District Court for the Northern District of Texas using the CM/ECF system, which will automatically send email notification of such filing to the following attorneys of record:

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